

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-57-EC - ORDER NO. 2002-418

JUNE 3, 2002

IN RE: Mr. and Mrs. James Tarmann,)	ORDER DENYING
)	MOTION TO DISMISS
Complainants,)	
)	
vs.)	
)	
Duke Power, BellSouth Telecommunications,)	
Inc., and the Public Service Commission of)	
South Carolina,)	
)	
Respondents.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on BellSouth Telecommunication Inc.'s (BellSouth's) Motion to Dismiss in this Complaint matter. BellSouth states its belief that there are no matters involved in the Complaint that have not been resolved, and that consideration has been accepted by the Complainants in settlement of each item. In the alternative, BellSouth requests that the Complainants provide BellSouth with any and all specific allegations that have not already been resolved, so that BellSouth can respond appropriately to the discovery requests propounded by the Complainants. The Complainant Tarmanns object to the Motion to Dismiss, stating, among other things, that their direct testimony will further clarify the complaint against BellSouth.

We deny the Motion to Dismiss. Although BellSouth alleges that all issues with the Tarmanns have been resolved in separate settlements on June 21, 1996, May 16, 1996, and October 22, 2001, we appear to have evidence of only one of these settlements in our files at present. We must deny the Motion, mainly because whether all issues have been settled or not is not clear from an examination of the file. This would appear to be a reasonable factual question for the trial of this case.

However, we do hereby require the Tarmanns to set out all specific allegations of their complaint against BellSouth (and for that matter, against all the other parties) in their prefiled direct testimony, which is yet to be filed with this Commission, so that BellSouth can properly respond to discovery requests, and, also, so that all respondent parties can properly respond to said allegations in their respective respondent testimonies.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)